

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DIOGENES LIMITED and	)	
COLOSSUS (IOM) LIMITED,	)	
	)	
Plaintiffs,	)	
	)	C.A. No. 21-1695 (MN)
v.	)	
	)	
DRAFTKINGS, INC.,	)	
	)	
Defendant.	)	

**DEFENDANT DRAFTKINGS INC.'S MOTION TO DISMISS  
PLAINTIFFS' AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant DraftKings Inc. ("DraftKings") respectfully moves to dismiss Plaintiffs' Amended Complaint in its entirety because all asserted patent claims are invalid under 35 U.S.C. § 101. The grounds for this motion are fully set forth in DraftKings' Opening Brief in Support of Its Motion to Dismiss for Failure to State a Claim.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Rodger D. Smith II*

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February 22, 2022

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FOR THE DISTRICT OF DELAWARE

DIOGENES LIMITED and	)	
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	)	
Plaintiffs,	)	
	)	C.A. No. 21-1695 (MN)
v.	)	
	)	
DRAFTKINGS, INC.,	)	
	)	
Defendant.	)	

**[PROPOSED] ORDER GRANTING DEFENDANT DRAFTKINGS INC.'S MOTION TO  
DISMISS PLAINTIFFS' AMENDED COMPLAINT**

At Wilmington this \_\_\_\_ day of \_\_\_\_\_. 2022, having considered  
DRAFTKINGS INC.'S MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT, IT  
IS HEREBY ORDERED that the motion is GRANTED.

The Court finds that Plaintiffs' Amended Complaint should be dismissed for  
Failure to State a Claim Pursuant to Fed. R. Civ. P. 12(b)(6).

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The Honorable Maryellen Noreika

**CERTIFICATE OF SERVICE**

I hereby certify that on February 22, 2022, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on February 22, 2022, upon the following in the manner indicated:

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